

for certified copies of these types of information should be referred to the following offices: Weather and Climatological Records; Director, National Climatic Data Center, National Environmental Satellite, Data, and Information Service, NOAA, Federal Building, Asheville, NC 28801. Weather Forecasts and Warnings; Aviation Services Branch (W/OM13), National Weather Service, NOAA, Silver Spring, MD 20910. Aeronautical Charts; Aeronautical Charting Division (N/CG3), National Ocean Service, NOAA, Rockville, MD 20852. Nautical Charts; Chart Information Section (N/GC222), National Ocean Service, NOAA, Rockville, MD 20852. Other; Office of the General Counsel, National Oceanic and Atmospheric Administration, Washington, DC 20230.

(c) Requests for the appearance of NOAA employees to give testimony in litigation not involving the United States should be addressed to the Office of General Counsel at the address shown in paragraph (b) of this section.

[43 FR 36240, Aug. 16, 1978, as amended at 48 FR 17064, Apr. 21, 1983]

§ 909.3 Response to subpoena duces tecum.

(a) Any officer or employee served with a subpoena duces tecum or the equivalent for the production of any NOAA record shall promptly notify the Office of General Counsel. The subpoena duces tecum shall be treated as a request for records, information, or data under 15 CFR part 903.

(b) The officer or employee served shall decline to produce the record that is the subject of a subpoena duces tecum until its release has been authorized pursuant to 15 CFR part 903. If, as a result of having complied with the preceding sentence of this subsection, the officer or employee is ordered to show cause why he or she should not be held in contempt of the court issuing the subpoena, the General Counsel shall request the Department of Justice to represent the officer or employee.

§ 909.4 Testimony by NOAA employees in litigation not involving the United States.

(a) No NOAA officer or employee shall give testimony in any tribunal concerning any function of NOAA, or

any data, information, or record created or acquired by NOAA as a result of the discharge of its official duties, without the prior authorization of the general counsel or the general counsel's designee.

(b) Upon receiving a subpoena which orders the giving of testimony, a NOAA officer or employee shall immediately notify the Office of General Counsel. The officer or employee shall decline to testify unless otherwise authorized by the general counsel or designee. If, as a result of having complied with the provisions of this section, the officer or employee is ordered to show cause why he or she should not be held in contempt of the court issuing the subpoena, the general counsel shall request the Department of Justice to represent the officer or employee.

§ 909.5 Conditions for authorizing testimony.

(a) Any non-Federal party desiring testimony from a NOAA officer or employee shall make a written request therefor addressed to the Office of General Counsel. The request shall include a general statement of the testimony to be elicited, the requester's interest in that testimony, a brief description of the intended use of the testimony and a statement as to why the testimony is not available elsewhere.

(b) The general counsel or designee shall authorize a NOAA officer or employee to provide factual testimony when the requesting party has sufficiently shown: (1) That the evidence to be adduced is not reasonably available from any other source; (2) that no NOAA record or data could be introduced in evidence in substitution for the testimony; and (3) that the other requirements of this part have been met.

(c) Where less than all of the conditions of paragraph (b) of this section are met, the general counsel or designee may authorize NOAA employees and officers to provide factual or expert testimony on any matters where NOAA has a significant interest in the litigation and the outcome may affect the implementation present or future policies, or where circumstances or